

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt new §27.86 relating to Veteran Discount Program to be codified under Title 43, Texas Administrative Code, Part 1.


The preamble and the adopted new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the new §27.86 is adopted and is authorized for filing with the Office of Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

DocuSigned by:



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Interim Director, Toll Operations Division

Recommended by:

DocuSigned by:



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Executive Director

115907 Dec. 10, 2020

Minute
Number

Date
Passed

Adoption Preamble

The Texas Department of Transportation (department) adopts new §27.86 concerning the Veteran Discount Program. The new §27.86 is adopted without changes to the proposed text as published in the October 9, 2020 issue of the *Texas Register* (45 TexReg 7232) and will not be republished.

EXPLANATION OF ADOPTED NEW SECTION

Transportation Code, §372.053, provides that a toll project entity, including the department, may establish a discount program for electronic toll collection customers. Such a program must include free or discounted use of the entity's toll project by an electronic toll collection customer whose account relates to a vehicle registered under Transportation Code, §504.202 or §504.315(f) or (g). S.B. 1091, 86th Regular Session, 2019, amended §372.053 by adding new subsection (a-2), which provides that a toll project entity may limit to no more than two the number of transponders issued to a participant in the entity's program for which free or discounted use of the entity's toll project is provided. A toll project entity that adopts a limit shall allow a participant to be issued one extra transponder on a demonstration of hardship by the participant, as determined by the entity.

New §27.86 describes the method by which the department will implement the statutory changes described above, including the number of transponders (tags) that will be issued to eligible

1 customers and the process for issuance of an additional tag
2 based on financial hardship.

3
4 New §27.86(a) sets forth the purpose of the rule, which is to
5 implement Transportation Code, §372.053.

6
7 New §27.86(b) acknowledges that the Texas Transportation
8 Commission (commission), by minute order, may adopt a policy
9 defining the circumstances under which free or discounted
10 passage will be granted on department toll projects, in
11 accordance with Transportation Code, §372.053. The subsection
12 further specifies that subsections (c) - (f) will apply to free
13 or discounted use of department toll projects by eligible
14 vehicles, as defined by commission minute order. The commission
15 has already adopted such a policy, which can be found in Minute
16 Order 115270, dated July 26, 2018. For purposes of subsections
17 (c) - (f), the term "owner" means a veteran who is the
18 registered owner of the eligible vehicle according to the
19 records of the Texas Department of Motor Vehicles.

20
21 New §27.86(c) provides that to receive free or discounted use of
22 department toll projects, the owner of an eligible vehicle must
23 establish an electronic toll collection customer account and
24 register the eligible vehicle and the tag affixed to that
25 vehicle through a process prescribed by the department.
26 Customers who have already established an electronic toll
27 collection customer account with the department or another toll

1 project entity in Texas will still be required to register the
2 eligible vehicle and tag affixed to that vehicle. This
3 registration process will enable the department to manage the
4 program in an efficient and effective manner.

5
6 New §27.86(d) limits free or discounted use of department toll
7 projects to one eligible vehicle, except as provided by
8 subsection (e). The department originally implemented the
9 veteran discount program in December of 2012. Prior to the
10 enactment of S.B. 1091, the department did not have authority to
11 limit the number of vehicles per veteran and applied the waiver
12 to tolls incurred by all eligible vehicles. Because free
13 passage on department toll projects may only be granted as
14 allowed under applicable trust agreements or indentures, the
15 agency is required to reimburse the Central Texas Turnpike
16 System (CTTS) for any difference in toll revenue resulting from
17 a rate change applied through the program. The commission
18 previously approved the use of payments received from the SH 130
19 Comprehensive Development Agreement to cover those
20 reimbursements. However, based on the current growth of
21 eligible vehicles using department toll projects, that funding
22 will not be sufficient to cover the required reimbursement in
23 future years. By limiting the number of eligible vehicles, the
24 department seeks to reduce the annual cost by up to 30%.

25
26 New §27.86(e) provides that the department will grant free or
27 discounted use of department toll projects to one additional

1 eligible vehicle upon a demonstration of financial hardship.
2 The owner of that vehicle must submit an application, on a form
3 approved the by department, accompanied by documentation that
4 establishes that the owner is enrolled in certain low income-
5 based federal assistance programs. In an effort to reduce the
6 time and effort required by the customer to demonstrate income
7 eligibility status and need for a hardship exception, the
8 department will use preexisting measures and standards
9 implemented by other governmental entities. The owner of the
10 vehicle must also register the vehicle and the tag affixed to
11 that vehicle through a process prescribed by the department. A
12 hardship exception will be valid for a three-year period. To
13 extend the exception, the owner must provide proof that the
14 hardship continues to exist not later than the third anniversary
15 of the date the hardship exemption was last granted by the
16 department. Failure to provide proof that the hardship
17 continues to exist results in expiration of the hardship
18 exception. The purpose of limiting the validity period to three
19 years is to ensure that the owner continues to qualify for the
20 exemption.

21
22 New §27.86(f) specifies that the department will provide the
23 tags required by this section, including replacement tags, at no
24 cost to the owner of an eligible vehicle that does not have an
25 existing tag.

1 The effective date of new §27.86 is March 15, 2021. The
2 department originally intended to proceed with a January 1, 2021
3 effective date. Additional time is necessary to deliver a new,
4 improved experience for customers. Changing the effective date
5 for new §27.86 will provide the department adequate time to
6 transition to a new tolling back office system, and to notify
7 veterans about enrollment under new §27.86.

8
9 COMMENTS

10 No comments on the proposed new section were received.
11

12 STATUTORY AUTHORITY

13 The amendments are adopted under Transportation Code, §201.101,
14 which provides the commission with the authority to establish
15 rules for the conduct of the work of the department, and more
16 specifically, Transportation Code, §372.053, which allows the
17 department to establish a discount program for certain
18 electronic toll collection customers.
19

20 CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING
21 Transportation Code §372.053.

SUBCHAPTER G. OPERATION OF DEPARTMENT TOLL PROJECTS

§27.86. Veteran Discount Program.

(a) Purpose. Transportation Code, §372.053 provides that the department may establish a discount program for electronic toll collection customers that must include free or discounted use of department toll projects by an electronic toll collection customer whose account relates to a vehicle registered under Transportation Code, §504.202 or §504.315(f) or (g). This section implements §372.053.

(b) General. The commission, by minute order, may adopt a policy defining the circumstances under which free or discounted passage will be granted on department toll projects, in accordance with Transportation Code, §372.053. Subsections (c)-(f) of this section will apply to free or discounted use of department toll projects by eligible vehicles, as defined by commission minute order. For purposes of subsections (c)-(f) of this section, the term "owner" means a veteran who is the registered owner of the eligible vehicle according to the records of the Texas Department of Motor Vehicles.

(c) Requirements. To receive free or discounted use of department toll projects, the owner of an eligible vehicle must establish an electronic toll collection customer account and register the eligible vehicle and the tag affixed to that vehicle through a process prescribed by the department.

1 (d) Limitation. Free or discounted use of department toll
2 projects is limited to one eligible vehicle except as provided
3 by subsection (e) of this section.

4 (e) Exception for financial hardship. The department will
5 grant free or discounted use of department toll projects for one
6 additional eligible vehicle in accordance with this subsection.
7 The owner of that eligible vehicle must complete and submit to
8 the department an application, on a form approved by the
9 department, accompanied by documentation that establishes that
10 the owner is enrolled in Medicaid, the Qualified Medicare
11 Beneficiary Program, the Specified Low-Income Medicare
12 Beneficiary Program, or the Qualifying Individual Program, or is
13 qualified for Supplemental Security Income. On receipt of an
14 application containing all required information, the department
15 will grant the hardship exception. To receive free or
16 discounted use of department toll projects for the additional
17 eligible vehicle, the owner of the vehicle must register the
18 vehicle and the tag affixed to that vehicle through a process
19 prescribed by the department. A hardship exception granted
20 under this subsection is valid for a three-year period. To
21 extend the exception, the owner must provide proof that the
22 hardship continues to exist not later than the third anniversary
23 of the date the hardship exemption was last granted by the
24 department. Failure to provide proof that the hardship
25 continues to exist by that date results in expiration of the
26 hardship exception on that date.

1 (f) Tag fees. Notwithstanding any fee for standard or
2 specialty tags established under §27.82 of this subchapter
3 (relating to Toll Operations), the department will provide the
4 tags required by this section, including replacement tags, at no
5 cost to the owner of an eligible vehicle that does not have an
6 existing tag.